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From-PILLSBURY WINTHROP SHAW PITTMAN LLP

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Attorney's Docket 016417-0272123

Client Reference:

APR 21 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:

Confirmation Number: 9179

GENE GOULD ET AL.

Application No.: 10/039,769

Group Art Unit: 2877

Filed: December 31, 2001

Examiner: LEE, Hwa S.

For: SCANNING SPECTROPHOTOMETER FOR HIGH THROUGHPUT FLUORESCENCE
DETECTION AND FLUORESCENCE POLARIZATION

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

**TERMINAL DISCLAIMER TO OBLIGATE
A DOUBLE PATENTING REJECTION (37 C.F.R. Section 1.321(c))**

Identification of Person(s) Making This Disclaimer

I, ANTHONY G. SMYTH, represent that I am the attorney of record.

EXTENT OF DISCLAIMANT'S INTEREST

The extent of the interest in this invention that the disclaimant owns is in the whole of this invention.

**DISCLAIMER
(Provisional Obviousness-Type Double Patenting Rejection Over A Pending
Application)**

Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of any patent granted on Application No. 09/552, 803, issued as Patent No. 6,654,119, filed on April 20, 2000, as shortened by any terminal disclaimer. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the above-listed application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

Terminal Disclaimer to Obviate a Double Patenting Rejection—page 1

600139926v1

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. Sections 154 to 156 and 173 of any patent granted on the application forming the basis of the double patenting rejection, namely, any patent granted on Application No. 09/552, 803, issued as Patent No. 6,654,119, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. Section 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

For submissions on behalf of an organization (e.g., corporation, partnership, university, Government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

DISCLAIMER FEE (37 C.F.R. Section 1.20(d))

Small entity--fee \$65.

FEE PAYMENT

Charge Deposit Account No. 033975 the sum of \$65

A duplicate of this disclaimer is attached.

Date: April 21, 2006
 PILLSBURY WINTHROP SHAW PITTMAN LLP
 11682 El Camino Real, Suite 200
 San Diego, CA 92130-2092
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Anthony G. Smyth
 ANTHONY G. SMYTH
 Registration No. 55636

CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10*

(When using Express Mail, the Express Mail label number is mandatory; Express Mail certification is optional.)

I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.

Sachiko Y. Snedden
 Signature

SACHIKO Y. SNEEDDEN
 (type or print name of person certifying)

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* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

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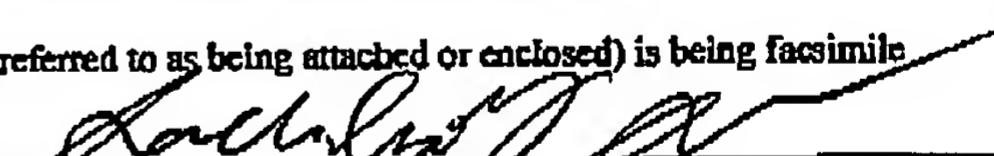
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